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MINUTES OF MEETING - JUNE 19-20, JUNE 24 AND JULY 1, 2004

A meeting of the Chiropractic Physicians' Board of Nevada was held on Saturday and Sunday, June 19 and 20, 2004 at 9:10 AM in Suite M-245 at 4600 Kietzke Lane, Reno, Nevada. The following were present at the roll call:

Robert Lazenby, Consumer Member
Donald Miner, DC, Secretary
Clyde Porter, DC, Member
Ian Yamane, DC, Member
Stephanie Youngblood, DC, President

Vice President Margaret Colucci, DC, arrived at 9:25 AM. Also present were Senior Deputy Attorney General Robert Auer, Deputy Attorney General Ned Reed, George Kosmides, DC, CPBN Executive Director Cindy Wade, Gina Crown, Gertrude Sprinkel, Stuart Pardee, DC, Dublin Hart, DC, Frank Rhoades and Eunice Fahey.

AGENDA ITEM 1 A quorum was present and the meeting was called to order by Dr. Youngblood.

AGENDA ITEM 2 Dr. Yamane led those present in the Pledge of Allegiance.

AGENDA ITEM 3 Dr. Miner moved to approve the agenda. Dr. Youngblood seconded the motion and it passed unanimously.

AGENDA ITEM 4 At Dr. Youngblood's request, Cindy related the background of Dr. George Kosmides' request to be approved as an applicant for Nevada licensure. The issue was that Dr. Kosmides graduated from Southern California College of Chiropractic, a non-CCE accredited college. Dr. Kosmides presented his professional credentials attained since he acquired his DC degree. Mr. Lazenby moved to accept Dr. Kosmides' credentials and approve him as an applicant for DC licensure. Dr. Porter seconded the motion which passed unanimously.

AGENDA ITEM 5 Senior DAG Robert Auer informed the Board that a settlement has been reached in concept pursuant to Complaint No. 01-9 in the matter of Mark J. Mattoon, DC. The complaint addressed the issues of providing a patient with a controlled substance, record keeping violations, unregistered personnel and failure to provide information requested by the Board. The terms of the proposed settlement include publication of a letter of reprimand, attendance at a minimum of six hours at a records management/record keeping course, reimbursement to the Board for its costs in the amount of \$1,000,

AGENDA ITEM 5 (cont'd) a covenant not to sue and to hold harmless the Board members, etc., for their action in this matter, and a promise to adhere to all laws with regard to controlled substances, record keeping and unregistered personnel.

Following discussion, the Board did not approve the terms of the proposed settlement. Dr. Colucci moved to proceed to hearing with the understanding that counsel has the authority to negotiate an embellished settlement prior to hearing. Mr. Lazenby seconded the motion which passed unanimously.

AGENDA ITEM 6 Dr. Joseph Dobler, as well as Court Reporter Leslie R. Rosenthal, were present for the hearing in the matter of Case No. 02-21 for Joseph William Dobler, DC. Dr. Dobler stated that he was not represented by an attorney and gave his name and address for the record. Dr. Donald Miner recused himself from the matter. Mr. Auer waived his opening statement, advising the Board to rely on the published Complaint and Notice of Hearing. Dr. Dobler waived making an opening statement.

The following witnesses testified for the prosecution: **Cindy Wade, Gina Crown, Gertrude Sprinkel, Stuart Pardee, DC, Dublin Hart, DC, Frank Rhoades and Eunice Fahey. Plaintiff's Exhibit Nos. 1 through 10** were admitted.

Following a break for lunch, lobbyist candidate, Susan Fisher, was present.

Dr. Dobler presented his case. **Defendant's Exhibit Nos. 1 and 2** were admitted.

Mr. Auer and Dr. Dobler presented their closing arguments and the Board proceeded into deliberation of the matter.

The Board unanimously agreed that Dr. Dobler was **GUILTY** of unprofessional conduct and/or repeated malpractice under NRS 634.140, NRS 634.017 and NRS 634.018(10), (11) and (13).

The Board unanimously agreed that Dr. Dobler was **GUILTY** of unprofessional conduct and providing false information to the Board on his 2003 practice self-inspection form under NRS 634.018(10) and NAC 634.430(1)(h).

Drs. Colucci, Miner, Porter, Yamane and Youngblood agreed that Dr. Dobler was **GUILTY** of unprofessional conduct and failure to ensure the maintenance of complete health care records for patients under NRS 634.018(10) and NAC 634.435; Mr. Lazenby abstained from passing judgment in this instance.

The Board found Dr. Dobler **NOT GUILTY** of the alleged violation of NRS 634.018(9).

Dr. Yamane moved that Dr. Dobler's license be suspended for one year, followed by a three-year probation; that during the probationary period Dr. Dobler submit to compliance monitoring by the Board's investigator; that Dr. Dobler shall attend 12 educational hours on the subject of record-keeping and 12 educational hours on the subject of standards of care; that prior to reinstatement of his license, Dr. Dobler shall reimburse the board for its investigative costs and attorneys' fees in this matter; that Dr. Dobler shall provide a medical evaluation to the board providing documentation that his seizure condition

AGENDA ITEM 6 (cont'd) is under control and that he is not a danger to the public if allowed to practice chiropractic. Mr. Lazenby seconded and the motion passed unanimously with Dr. Miner abstaining.

Dr. Youngblood informed Dr. Dobler that he will receive the Board's formal decision by certified mail and his discipline will begin on the day he receives it in the mail.

AGENDA ITEM 10 Dr. Miner moved to grant Doctor of Chiropractic licenses to the candidates who passed the test on May 12, 2004. Mr. Lazenby seconded and the motion passed unanimously.

AGENDA ITEM 11 Mr. Lazenby moved and Dr. Yamane seconded to hold a regulation workshop by videoconference on July 29, 2004. The motion passed unanimously.

Mr. Lazenby moved and Dr. Yamane seconded to hold a Board meeting in Las Vegas on August 28 and 29, 2004. The motion passed unanimously.

Dr. Yamane moved and Mr. Lazenby seconded to hold a one-hour teleconference meeting at 12:00 Noon on July 20, 2004.

Dr. Miner moved and Mr. Lazenby seconded to hold a one-hour teleconference meeting at 12:00 Noon on August 3, 2004.

Dr. Youngblood asked for **Public Comment**.

A discussion ensued regarding the fact that Mr. Lazenby and Dr. Yamane would not be present for resumption of the meeting on Sunday, June 20. Drs. Colucci, Miner, Porter and Youngblood stated that they would be present. Therefore, since a quorum would be present it was decided that the meeting should continue the next day.

There was no public comment and the meeting was recessed.

The meeting was called to order at 9:00 AM on Sunday, June 20, 2004 in Suite M245 at 4600 Kietzke Lane, Reno, Nevada. The following were present at the roll call:

Margaret Colucci, DC, Vice President
Donald H. Miner, DC, Secretary
Stephanie Youngblood, DC, President

CPBN Executive Director Cindy Wade was also present. Drs. Porter and Yamane and Mr. Lazenby were not present. Dr. Youngblood determined that a quorum of the board was not present.

It was agreed that a teleconference meeting should be scheduled for 12:00 Noon on June 24 or 25, 2004. The agenda should address the June 19-20 agenda for action on item Nos. 7, 9, 14, 15 (except for approval of lobbyist), and 17, with the addition of a new item regarding determination if the board needs a lobbyist.

At 10:25 AM the meeting was continued until the June 24 or 25, 2004 teleconference.

The meeting resumed at 12:02 PM on June 24, 2004 by teleconference. Present at the roll call were:

Margaret Colucci, DC, Vice President
Donald H. Miner, DC, Secretary
Stephanie Youngblood, DC, President

CPBN Executive Director Cindy Wade was also present. Drs. Porter and Yamane and Mr. Lazenby were not present. Dr. Youngblood determined that a quorum of the board was not present.

Dr. Youngblood stated that this is a serious issue that needs to be addressed. The State of Nevada is being held hostage, public protection is being denied and it is costing the State money.

It was agreed to continue this meeting one more time by teleconference at 12:00 Noon on July 1, 2004. The agendas will be sent to the absent board members by fax, e-mail and certified mail.

The meeting recessed at 12:14 PM.

The meeting resumed at 12:02 PM on July 1, 2004 by teleconference. Present at the roll call were:

Margaret Colucci, DC, Vice President
Robert Lazenby, Consumer Member
Donald Miner, DC, Secretary
Clyde Porter, DC, Member
Ian Yamane, DC, Member
Stephanie Youngblood, DC, President

Also present was CPBN Executive Director Cindy Wade.

Dr. Youngblood announced that this meeting is scheduled for one hour and she will allow it to go for 1-1/2 hours after which any unfinished business will be continued on the scheduled July 20, 2004 teleconference meeting. She requested that there be no interruptions when someone is speaking.

AGENDA ITEM 1 Dr. Youngblood called the meeting to order and determined that a quorum of the Board was present.

AGENDA ITEM 2 Dr. Porter moved for approval of the agenda and Dr. Miner seconded. The motion passed with all in favor and no one opposed.

AGENDA ITEM 3A Dr. Porter presented Complaint 00-12. This is an old complaint against a DC whose handouts in his office refer to him only as "Doctor" and make no indication that he is a chiropractor. Mr. Lazenby moved to dismiss the complaint with a letter to the doctor informing him that he must indicate in every piece of printed material that he is a chiropractor and requiring him to provide evidence that he has conformed his printed material along with his assurance that he will discontinue all printed material that does not indicate that he is a chiropractor. The motion passed unanimously.

AGENDA ITEM 3B Complaint 00-22 was filed against a DC whose web site contains self-laudatory statements and that he is a specialist of sorts in a specific technique. Although this is an old complaint, the self-laudatory statements were still there, however, the doctor removed the statements the next day after he was contacted by Dr. Porter and sent a letter of apology. Dr. Porter moved to dismiss the complaint with a letter of concern to be sent to the DC. The motion was seconded by Mr. Lazenby. Following discussion, the motion passed with all in favor except Mr. Lazenby, who was opposed.

AGENDA ITEM 3C Complaint 01-14 is an old complaint that was inherited by Dr. Yamane and concerns practicing chiropractic prior to being granted a license. Dr. Yamane moved to proceed to disciplinary action in this matter. Dr. Miner seconded the motion which passed unanimously.

AGENDA ITEM 3D Complaint 03-17 was presented by Dr. Yamane to the Board at a previous meeting. It concerns a dispute over release of records and payment for copying the records because many were duplicates, and failure by the DC to respond to Dr. Yamane's calls concerning the complaint. At the Board's request, the Board's counsel at the time sent a letter to the DC explaining the violations and offered to settle the matter. Currently both parties involved have been paid, the PI case is closed and the DC claims that she was not aware of Dr. Yamane's calls. Our current DAG recommends that the complaint be dismissed and Dr. Yamane so moved. Dr. Miner seconded and the motion passed unanimously.

AGENDA ITEM 3E Complaint 04-3 alleges injury from an adjustment and improperly billing for a service that was offered free of charge. The patient records were in order and Dr. Porter found no evidence of injury other than the patient experienced some pain. Considering the patient's metal fixation of the lower lumbar segments, the DC used activator and drop table and there is almost no likelihood for injury. The DC provided evidence that the billing dispute was handled promptly. There was no evidence of a violation and Dr. Porter moved to dismiss the complaint. The motion was seconded by Dr. Miner and passed unanimously.

AGENDA ITEM 3F, 3G AND 3H Dr. Porter presented these complaints together because they are against the same DC. The issues involve an unregistered massage therapist who left the doctor's employ and successfully sued for payment of outstanding fees, breach of confidentiality resulting from billing dispute and concern with respect to the doctor's ethics concerning employee and billing practices. Subsequent to Dr. Porter's contact with the DC, an application for the doctor's new massage therapist was submitted and he feels that it appears that the doctor is now in compliance. Dr. Porter stated that the doctor has apparently learned her lesson and a lesson can be learned cheaper than going to hearing. He moved for dismissal with a stern letter to the DC to remind her of the laws and regulations concerning employment of CAs and CAs for Massage. Dr. Yamane seconded the motion which did not pass with Drs. Colucci, Miner, Yamane and Youngblood and Mr. Lazenby opposed. Dr. Porter abstained. After further discussion, Dr. Miner moved to proceed with further investigation in this matter. Mr. Lazenby seconded the motion and it passed unanimously.

AGENDA ITEM 4 Dr. Miner moved for approval of the May 4, 2004 meeting minutes. Dr. Porter seconded and the motion passed unanimously.

AGENDA ITEM 5 Cindy requested approval of the proposal for a GLSuite hosted renewal website for implementation for the 2005 renewal season. She has contacted other boards who have expressed their satisfaction with the system and are experiencing a rapid growth in on-line renewals. The initial cost is reasonable and the monthly fee will be offset by the amount currently being assessed by State DOIT. Some of the benefits to the Board are that the renewal information will be inputted directly into our database and the fees directly deposited into the Board's bank account, eliminating much paperwork and manual data input. The profession will benefit from the ease of renewing and the use of credit cards for payment of renewal fees. Dr. Miner moved for approval of the GLSuite hosted renewal website. The motion was seconded by Dr. Colucci and passed unanimously.

Dr. Youngblood announced that the meeting has now been in session for 1-1/2 hours and must be concluded. The next meetings will be by teleconference at 12:00 Noon on July 20 and at 12:00 Noon on August 3, 2004.

AGENDA ITEM 11 There was no public comment.

AGENDA ITEM 12 The meeting adjourned at 1:33 PM.

Approved: August 28, 2004

Donald H. Miner, DC, Secretary